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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,133	03/31/2004	Bo Xia	1000-0037	9199

7590 10/10/2008
The Law Offices of John C. Scott, LLC
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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 10/10/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/815,133	Applicant(s) XIA ET AL.	
	Examiner Joseph D. Torres	Art Unit 2112	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 05 March 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/Joseph D. Torres/
Primary Examiner, Art Unit 2112

Continuation of 10. Other (including any explanation in support of the above items): Claims 1-4, 6, 10-16, 18, 20, 21 and 30-32 are objected to because of the following informalities: claims 1, 15, and 30 refer to elements, such as Appendix A, not having antecedent basis in the claims as pointed out in the last Office Action. 37 CFR 1.75 states "a claim may not contain any other parts of the application or other material". The term "independent claim" makes clear what is meant by "a claim may not contain any other parts of the application or other material". A claim can hardly be considered independent if it depends from other materials. MPEP 608.01(m) states "Reference characters corresponding to elements recited in the detailed description and the drawings may be used in conjunction with the recitation of the same element or group of elements in the claims. The reference characters, however, should be enclosed within parentheses so as to avoid confusion with other numbers or characters, which may appear in the claims. The use of reference characters is to be considered as having no effect on the scope of the claims".

Furthermore since claims 1, 15, and 30 are dependant, claims 2-4, 6, 10-14, 16, 18, 20, 21 and 31-32 fail to depend from an independent claim.

The term "Appendix A" should be removed from the claim since if it is included in parenthesis it will be "considered as having no effect on the scope of the claims" and will not be given patentable weight. In addition, simply placing Appendix A in parenthesis would lead to indefinite grammatical structure.

Appropriate correction is required.

Reference to Appendix A in claim 1 must be removed or Appendix A must be incorporated into claim 1 just as was done in claim 34.